

## REMARKS

### I. Introduction

Claims 1, 19, 37 and 101 stand rejected under 35 U.S.C. § 103 as being unpatentable over Nishi et al. (RE 39318) in view of Wang et al. (US Pub. 2004/0131119).

Claim 28 stands rejected under 35 U.S.C. § 103 as being unpatentable over Panusopone et al. (U.S. Pat. 6,647,061) in view of Wang et al. (US Pub. 2004/0131119).

Claims 2-9, 20-27, 29-32, 34-36, 61-80 and 110-116 stand rejected under 35 U.S.C. § 102 as being unpatentable over Nishi in view of Wang in view of Takayama (U.S. Pat. 6,512,791).

Applicant respectfully traverses the rejections.

Each of the above rejections rely on Wang et al. to support the rejection. However, Wang et al. is not prior art to the pending claims of the present application. Indeed, Wang et al. is pending U.S. Pat. App. No.: 10/676,911, which is the published version of the present application. Accordingly, Wang et al. is clearly not prior art to the present application, and cannot be relied upon to reject the claims of the present application.

Moreover, the rejection of claim 28 relies on Panusopone et al., which was granted on November 11, 2003, after the filing date of the present application (October 6, 2003), and hence only qualifies as prior art under 35 U.S.C. § 102(e). Panusopone et al. is owned by the assignee of the present application (General Instrument Corporation), and hence cannot be used in a rejection of the present application under 35 U.S.C. § 103. See, 35 U.S.C. § 103(c).

Hence, Applicant respectfully requests the rejections to be withdrawn.

## II. Conclusion

Having fully responded to the Office action, the application is believed to be in condition for allowance. Should any issues arise that prevent early allowance of the above application, the examiner is invited contact the undersigned to resolve such issues.

To the extent an extension of time is needed for consideration of this response, Applicant hereby request such extension and, the Commissioner is hereby authorized to charge deposit account number 502117 for any fees associated therewith.

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Respectfully submitted,

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